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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,268	10/31/2003	Marc D. Curtis	552P008	1668
7590	04/07/2006		EXAMINER WEBB, TIFFANY LOUISE	
Kevin S. Lemack Niels & Lemack Suite 7 176 E. Main Street Westboro, MA 01581			ART UNIT 3616	PAPER NUMBER
DATE MAILED: 04/07/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/698,268

Applicant(s)

CURTIS, MARC D.

Examiner

Tiffany L. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 January 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foote et al. (US 4,577,712) in view of Ono et al. (US 2002/003289). Regarding claim 1, Foote et al. discloses an off-the-road vehicle having a transmission including, a shaft (70), a shaft extension, and a hydraulic system including a hydraulic pump (92) driven by the shaft and in communication with the hydraulic fluid (col. 4 lines 17-18) for operating a working implement (Abstract, lines 25-28). Foote et al. discloses a manual transmission with a clutch (86) for both shifting the transmission and also for changing to the hydraulic system, but fails to disclose a drive pulley on the shaft with an endless belt, a driven pulley on the hydraulic pump, or a torque converter. Ono et al. discloses having a torque converter (12) on an automatic transmission (13) in a working vehicle. Further, Ono et al. teaches that the use of a belt (41) and pulley system (37 and 39) can be used in driving a hydraulic pump. Foote et al. and Ono et al. are analogous art because both include the use of a hydraulic pump in operation with working implements. It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify Foote et al. to have an automatic transmission with a torque converter because it would have made driving the working vehicle easier to a user. It would have been obvious to a person having ordinary skill in the art at the time of the invention to provide an endless belt, a drive pulley, and driven pulley in the system of

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Foote et al. in view of Ono et al. because Ono et al. because Foote et al. discloses having a chain driven system and it would be obvious to change the chain to a belt. Further, regarding claim 2, Foote et al. and Ono et al. disclose having a clutch for engaging the hydraulic system (96 in Foote et al. and 33 in Ono et al.). With respect to claim 3, Foote et al. and Ono et al. discloses the claimed invention except for having a second drive pulley and a second driven pulley via a second endless belt. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add a second driven pulley and a second driven pulley via a second endless belt, so as to reduce slippage of the belt during torque increase, and since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

2. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foote et al. in view of Ono et al. as applied to claims 1 and 2 above, and further in view of Shultz et al. (US 6,691,435). Foote et al. and Ono et al. are discussed above and fail to disclose having an actuator for diverting hydraulic fluid from a hydraulic pump to a working implement or having a snow plow blade as a working implement. Regarding claim 4, Shultz et al. discloses having actuators for diverting hydraulic fluid away from a hydraulic pump (114) to a working implement (col. 4, lines 60-64). Further regarding claim 5, Shultz et al. discloses having a snow plow blade (114) as a working implement. Shultz et al. teaches including a snow plow blade as a working implement and using actuators to divert hydraulic fluid from a pump to the working implement. It would have been obvious to a person having ordinary skill in the art at the time of the invention to

provide a snow plow blade and hydraulic actuators in the system of Foote et al. in view of the teachings of Shultz et al. so as to allow for a vehicle to include a hydraulic snow plow blade and also actuators for controlling working implements and diverting fluid from the implement to a pump when the implement is not in use.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foote et al. in view of Ono et al. as applied to claims 1 and 2 above, and further in view of Duttarer (US 4,136,909). Foote et al. and Ono et al. are discussed above and fail to disclose having a dump body as a working implement. Duttarer discloses having a dump body (36) for connection to a vehicle as a working implement. Duttarer teaches using a dump body as a working implement and using a hydraulic system to operate the dump body. It would have been obvious to a person having ordinary skill in the art at the time of the invention to provide a dump body in the system of Foote et al. in view of the teachings of Duttarer so as to allow for a vehicle to have a dumping implement that can be moved through positions to allow for easier disposal of items in the dump body.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foote et al. in view of Ono et al. as applied to claims 1 and 2 above, and further in view of Jordan (US 3,604,479). Foote et al. and Ono et al. are discussed above and fails to disclose having a chain saw as a working implement. Jordan discloses having a chain saw device (134, 136) that is hydraulically operated (20) and can be mounted to the front of a vehicle. Jordan teaches that a chain saw can be used as a working implement through hydraulic power on a vehicle. It would have been obvious to a person having ordinary skill in the art at the time of the invention to provide a chain saw in the system

of Foote et al. in view of the teachings of Jordan in order to allow for a vehicle to have a chain saw as a working implement to perform functions such as felling trees.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foote et al. in view of Ono et al. as applied to claims 1 and 2 above, and further in view of Christensen (US 3,004,523). Foote et al. and Ono et al. are discussed above and fail to disclose having a jack hammer as a working implement. Christensen discloses having an impact tool that can be a jack hammer (10) that is hydraulically operated (col. 1, lines 15-16). Christensen teaches having a hydraulically operated jack hammer as a working implement that is connected to any type of hydraulic system. It would have been obvious to a person having ordinary skill in the art at the time of the invention to provide a jack hammer in the system of Foote et al. in view of the teachings of Christensen in order to allow for the vehicle of Foote et al. to have a jack hammer as a working implement connected to a hydraulic system.

### ***Response to Arguments***

6. Applicant's arguments, see page 3 lines 20-24, filed 1/20/2006, with respect to the rejection(s) of claim(s) 1-3 under 35 USC 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Foote et al. in view of Ono et al. (discussed above).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following are all transmissions with torque converters: Mills (US 3,924,490), Rundle (US 4,658,662), and Shichinohe et al. (US 2001/0020402).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tiffany L. Webb whose telephone number is 571-272-2797. The examiner can normally be reached on 8-4:30 M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tiffany L Webb  
Examiner  
Art Unit 3616

tlw



PAUL N. DICKSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600